



# Town Of Amenia

36B MECHANIC STREET, PO BOX 126, AMENIA, NY 12501

TEL: 845-373-8860 x106 FAX: 845-373-9147

## Planning Board Meeting

June 25, 2009 @7:00PM

Chairman William Flood  
George Fenn  
Anthony Robustelli  
Nina Peek  
Joseph Fontaine  
Peter Clair  
James Walsh

Others Present: Michael Hayes, Town Attorney  
Mary Ann Johnson, Greenplan  
Dr. Michael Klemens

*Chairman called the meeting to order at 7:04 pm*

### Depot Hill Subdivision

Chairman read a letter from J. Petronella, NYS DEC Environmental Analyst requesting an extension of the DEIS comment period because the department has not completed the review.

*Motion to extend the comment period until July 30, 2009 workshop meeting.*

Motion made by J. Walsh; seconded by P. Clair

All in favor

**Maplebrook School Inc.,  
Project: Woodcliff extension**

**Site Plan**

**5142 Route 22, Amenia**

Represented by Ken Hale, Business Manager; As requested Mr. Hale provided the board with the square footage of the proposed decks, at 731sq/ft and the Board of Health approval.

Chairman completed the short EAF form.

*Motion to declare a negative declaration and uncoordinated review.*

Motion made by J. Walsh; seconded by J. Fontaine

All in favor

*Motion to waive the public hearing.*

Motion made by J. Walsh; seconded by G. Fenn  
All in favor

*Motion to grant site plan approval*

Motion made by J. Walsh; seconded by G. Fenn  
All in favor

The Applicant will provide the mylar's to Bill Flood for his signature.

**Smithfield Farm                      pre-application/subdivision Flint Hill Rd./Cty Rt. 83**

Presented by Kirk Horton,

Application for a two lot subdivision. A majority of one of the lots is held in a conservation easement with the Dutchess Land Conservancy. Applicant will submit a letter from DLC indicating their approval of the proposed subdivision. Applicant will also submit a complete application to the Planning Board on or before July 16, 2009, which is the deadline to be on the agenda for the July 30<sup>th</sup> workshop.

*Motion to schedule the public hearing on August 6, 2009 at 7:00pm.*

Motion made by J. Walsh; seconded by P. Clair  
All in favor

**Sander Gjonaj                      pre-application                      770 Old Route 22, Amenia**

Presented by Daniel F. Wheeler of D.F. Wheeler Engineers, PC

Mr. Wheeler approached the board for a discussion of the property, also present were Nancy Brusie, Zoning Administrator and Mike Segelken, Building Inspector.

Attorney Hayes gave history of the project site and a summary of the zoning issues related to the project site as follows:

1. A variance does run with the land, and so a change in ownership of the land does not impact the validity of the variance.
2. A variance does expire if the property owner does not obtain the necessary site plan approval or building permits within the time provided by the Town Code.

The variance in question was granted in 1979, and the property owner never obtained the necessary building permits or site plan approval. In 1979, section 121-33(A)(4) of the Zoning Code stated that the building permit and site plan approval must be obtained within 6 months of the date that the variance was granted, or else the variance expires. Accordingly, the 1979 variance has been null and void for nearly 30 years.

The end result would not be any different if the expiration date was calculated using the new Zoning Law. Specifically, section 121-59(K) of the new Zoning Law states that the building permit and site plan approval must be obtained within one year of the date that the variance was granted, or else the variance expires. So even if the one-year period contained in the current Zoning Law could be retroactively applied to the 1979 variance, it still would have expired sometime in 1980.

Being the variance has expired, the current property owner would be required to seek a new variance from the ZBA before he could seek to make improvements to the property designed to resume the use authorized by the 1979 variance. Specifically, once a variance has expired, the property owner is not automatically entitled to renewal or to a variance, but must again establish entitlement to the requested relief.

Currently there is a cease and desist order on the property.

Mr. Wheeler will take this information back to the applicant.

**Silo Ridge Community Resort      Special use permit & Master Development Plan  
Route 22, Amenia**

Others Present:      MaryAnne Johnson, GREENPLAN Inc. Consultant  
                             Dr. Michael Klemens, Town Environmental Consultant  
                             Michael Dignacco, Millbrook Ventures- Applicant Consultant  
                             Dan Leary, Esq. Applicant's Attorney

M. Hayes Esq. reviewed the Special Use Permit and the Master Development Plan Approval Statement. Discussed were the conditions as listed on pages 32 and 33 of the document.

J. Walsh inquired further for a clearer understanding of the phasing order and the bonding requirements of the project. Michael Hayes responded that the Applicant intends to apply for Site Plan Approval for the entire project – not in phases – and as such would be required to post a bond for all infrastructure improvements related to the project. The amount of the bond would be determined by the Planning Board with assistance from the PB Engineer and the PB attorney.

Nina Peek noted that because she had not received the documents from Michael Hayes, she had not reviewed them.

Chairman read the resolution to approve the Special Use Permit for the Master Development Plan aloud.

*Motion to approve Resolution - Silo Ridge Resort Community - "Special Use Permit and Master Development Plan Approval Findings Statement".*

Motion made by J. Fontaine and Seconded by George Fenn.

Motion Carries 5/0/2 abstain (Jim Walsh, Nina Peek)

**Approval of Minutes**

*Motion to approve May 28, 2009 and June 4, 2009 minutes as emailed.*

Motion made by W. Flood and Seconded by J. Walsh

All in favor

Chairman publicly thanked Mary Ann Johnson and all who worked on the special permit. Job well done!

Motion to adjourn at 8:20pm

Motion made by P. Clair seconded by J. Fontaine

All in favor

Respectfully submitted,

Dawn Marie Klingner

Acting Planning Board Secretary

The foregoing represents unapproved minutes of the Town of Amenia Planning Board from the meeting held on June 25, 2009

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved with deletions, corrections, additions

## **RESOLUTION**

### **Silo Ridge Resort Community**

**WHEREAS**, the Town of Amenia Planning Board is in receipt of Subdivision, Special Use Permit, and Site Plan applications by Higher Ground Country Club, LLC to develop a  $\pm$  670 acre parcel of land as the Silo Ridge Resort Community; and

**WHEREAS**, the Silo Ridge Resort Community application has been pending before the Town of Amenia Planning Board since May of 2003; and

**WHEREAS**, in June of 2005, the Applicant submitted a revised development proposal for a resort community consisting of single family homes and townhome-style condominiums, a resort hotel, a spa and fitness center, restaurant and banquet facilities, event and retail space, and an improved golf course and renovated clubhouse; and

**WHEREAS**, on or about June 21, 2007, the applicant submitted a revised development proposal for a resort community comprised of up to 369 dwelling units (single family homes and condominiums), a resort condominium-hotel containing up to 320 hotel rooms (393 keys), a spa and fitness center, restaurant and banquet facilities, event and retail space, and an improved golf course and renovated clubhouse, and requested a determination that the revised proposed DEIS was adequate for public review; and

**WHEREAS**, the applicant provided the Planning Board with a preliminary master development plan ("MDP") for SEQRA purposes on February 7, 2008; and

**WHEREAS**, the Applicant submitted a full MDP and Set of Plans on or about April 3, 2008, which has been incorporated in the FEIS as an appendix; and

**WHEREAS**, the Planning Board completed its SEQRA review of the project on January 8, 2009 by adopting a Findings Statement that imposes numerous conditions that are designed to avoid or minimize the potential adverse environmental impacts of the project to the maximum extent practicable; and

**WHEREAS**, the development proposal described in the FEIS and Findings Statement includes 338 dwelling units (single family and townhomes), a resort condominium hotel containing up to 300 hotel rooms (367 keys), a spa and fitness center, restaurant and banquet facilities, event and retail space, and an improved golf course and renovated clubhouse; and

**WHEREAS**, the applicant submitted a revised, updated MDP and Set of Plans on or about January 15, 2009; and

**WHEREAS**, after that January 15 submission, the applicant made additional revisions to that MDP and Set of Plans in response to comments that it has received from the Planning Board and its consultants, and based upon the applicant's development needs; and

**WHEREAS**, on April 2, 2009, the Planning Board the Planning Board deemed the MDP and special use permit application to be complete for purposes of scheduling a public hearing; and

**WHEREAS**, on April 2, 2009, the Planning Board the Planning Board deemed the MDP and special use permit application to be complete for purposes of referring the application materials to the Zoning Board of Appeals and the Dutchess County Department of Planning and Development as required by section 121-62(E) of the Town of Amenia Zoning Law and section 239-m of the General Municipal Law, respectively, and thereafter caused the necessary referrals to be made to the Dutchess County Department of Planning and Development and the Town of Amenia Zoning Board of Appeals; and

**WHEREAS**, the Planning Board received two comment letters from the Dutchess County Department of Planning and Development dated April 28, 2009, and April 30, 2009, respectively, which recommended modifications relating to the applicant's proposed satisfaction of its obligations under the Town's Workforce Housing Law through the construction of excess wastewater treatment plant capacity reserved for the hamlet of Amenia at no cost to the Town; and

**WHEREAS**, the ZBA reviewed the special use permit application at a public meeting on April 16, 2009, and presented written comments to the Planning Board on May 15, 2009 stating that while the ZBA harbored some reservations about the gated community proposal, the ZBA was nonetheless recommending approval of the MDP and the special use permit application; and

**WHEREAS**, the Planning Board conducted a duly noticed and advertised public hearing on the special use permit and MDP on April 30, 2009, and accepted written comments from the public through the date of the public hearing; and

**WHEREAS**, after the public hearing was closed, the Applicant made additional submissions responsive to comments received from the Planning Board and members of the public, including without limitation a revised construction phasing plan, updated parking allocations and program details, and additional information attempting to balance the Applicant's need for flexibility in the construction phasing process in this economic climate with the Planning Board's desire to insure that development of the resort core area surrounding the Village Green occurs during the first phase of the Project; and

**WHEREAS**, the Planning Board has thoroughly reviewed the MDP and special use permit application materials, and has considered them in the context of the extensive project review that occurred during the five-year SEQRA process that culminated with the Planning Board's adoption of a SEQRA Findings Statement on January 8, 2009; and

**WHEREAS**, the Planning Board has thoroughly reviewed the MDP and special use permit application materials, and has considered them in the context of: the written comments that it has received and the comments that were made at the public hearing and other meetings of the Planning Board; the comments and recommendations that it has received from its planning, engineering, environmental, and legal consultants; the



comments and recommendations that it has received from the Zoning Board of Appeals, and the comments and recommendations that it has received from the Dutchess County Department of Planning and Development; and

**WHEREAS**, the Planning Board has thoroughly reviewed the MDP and special use permit application materials, and has considered them in the context of the requirements of the Town of Amenia Zoning Law, including without limitation the provisions of the Zoning Law relating to special use permit and MDP approval for a Resort Development project, and special use permit approval for a Major Project; and

**WHEREAS**, the Planning Board has caused a detailed "Special Use Permit and Master Development Plan Approval Findings Statement" dated June 25, 2009 to be prepared; and

**WHEREAS**, the "Special Use Permit and Master Development Plan Approval Findings Statement" provides a detailed statement of the Planning Board's findings supporting its determination that the MDP and special use permit satisfy the applicable criteria of the Zoning Law, and that the MDP and special use permit application should be approved, subject to the Conditions of Approval set forth in that document; and

**WHEREAS**, the Planning Board concludes and determines that the Conditions of Approval contained in the "Special Use Permit and Master Development Plan Approval Findings Statement" are reasonable conditions and restrictions that are directly related to and incidental to the MDP and special use permit, and that this conclusion and determination includes without limitation the conditions of the adopted January 8, 2009 SEQRA Findings Statement that have also been adopted and incorporated by reference as the first Condition of Approval appearing in the "Special Use Permit and Master Development Plan Approval Findings Statement"; and

**WHEREAS**, the Planning Board concludes and determines that the revisions that have been made to the Project since the adoption of the SEQRA Findings Statement do not implicate any potentially significant adverse environmental impacts that were not addressed, or that were inadequately addressed, in the Environmental Impact Statement and SEQRA Findings Statement

**NOW THEREFORE BE IT RESOLVED**, that the Planning Board hereby adopts and incorporates by reference the June 25, 2009 "Special Use Permit and Master Development Plan Approval Findings Statement"; and

**BE IT FURTHER RESOLVED**, that the Planning Board hereby approves the MDP and Set of Plans, and the special use permit application, for the reasons stated in this Resolution and in the June 25, 2009 "Special Use Permit and Master Development Plan Approval Findings Statement", subject to the Conditions of Approval set forth therein; and

**BE IT FURTHER RESOLVED**, that pursuant to section 121-18(C)(3)(f) of the Zoning Law, the Planning Board hereby grants conceptual site plan approval to the Project based upon the approved MDP and Set of Plans and special use permit

application materials, subject to the Conditions of Approval contained in the "Special Use Permit and Master Development Plan Approval Findings Statement", and subject to the requirement that applicant obtain final site plan approval pursuant to sections 121-65, 121-66, and 121-68 of the Zoning Law prior to commencing construction or obtaining building permits for any portion of the Project; and

**BE IT FURTHER RESOLVED**, that the Conditions of Approval contained in the "Special Use Permit and Master Development Plan Approval Findings Statement" are reasonable conditions and restrictions that are directly related to and incidental to the MDP and special use permit, and that such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town; and

**BE IT FURTHER RESOLVED**, that the Planning Board concludes and determines that the revisions that have been made to the Project since the adoption of the SEQRA Findings Statement do not require the preparation of a Supplemental Environmental Impact Statement; and

**BE IT FURTHER RESOLVED**, that a copy of this Resolution, the June 25, 2009 "Special Use Permit and Master Development Plan Approval Findings Statement", and the January 8, 2009 SEQRA Findings Statement shall be filed immediately in the Town Clerk's Office, and shall be mailed to the applicant.

The foregoing resolution was voted upon with all members voting as follows:

William Flood, Chairman

☒ Yes

No

Peter Clair

☒ Yes

No

George Fenn

☒ Yes

No

Joseph Fontaine

☒ Yes

No

Nina Peek

Yes

No

Tony Robustelli

☒ Yes

No

James Walsh

Yes

No

DATED: Amenia, New York  
June 25, 2009